

2007 DRAFTING REQUEST

Bill

Received: **02/27/2007**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Dan Kapanke (608) 266-5490**

By/Representing: **John Perlich**

This file may be shown to any legislator: **NO**

Drafter: **phurley**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - guns and weapons**

Extra Copies: **Ron Sklansky**

Submit via email: **YES**

Requester's email: **Sen.Kapanke@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Accidental shootings

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rryan	wjackson					S&L
	03/27/2007	04/04/2007					Crime
	rryan	jdyer					
	04/04/2007	04/11/2007					
	phurley						
	04/04/2007						
/P1			jfrantze		lparisi		S&L
			04/11/2007		04/11/2007		Crime

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/1	phurley 06/02/2007 phurley 10/26/2007	jdye 06/04/2007 jdye 10/26/2007	rschluet 06/04/2007 	 	lparisi 06/04/2007		S&L Crime
/2			nnatzke 10/26/2007	 	mbarman 10/26/2007	mbarman 11/02/2007	

FE Sent For: '12" @ intro.

<END>

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Handwritten notes:
1 6/4 jld
6/5 mm

FE Sent For:

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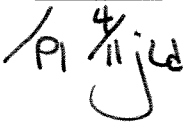

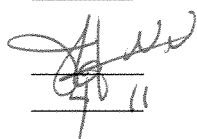
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/?	rryan						

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Kapanku 2/27/07

not just hunting

penalty ~~insufficient~~ insufficient

more from 941

2 more likely known & used w/
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& penalize if don'tnot punishing the shooting just
the failuremust 346 penalty
(without 1(5)(e))want to clean up 346.74(5)(e)
in bill as well.wants mens rea
knowingly discharges firearm
(from 29.390
& know that injured or killed

346.655 RULES OF THE ROAD

Imprisonment or suspension of a license under s. 345.47 (1) (a) and (b) does not eliminate the liability of a defendant for payment of a surcharge under s. 346.655. 73 Atty. Gen. 24.

SUBCHAPTER XI**ACCIDENTS AND ACCIDENT REPORTS**

346.66 Applicability of sections relating to accidents and accident reporting. In addition to being applicable upon highways, ss. 346.67 to 346.70 are applicable upon all premises held out to the public for use of their motor vehicles, all premises provided by employers to employees for the use of their motor vehicles and all premises provided to tenants of rental housing in buildings of 4 or more units for the use of their motor vehicles, whether such premises are publicly or privately owned and whether or not a fee is charged for the use thereof. These sections do not apply to private parking areas at farms or single-family residences or to accidents involving only snowmobiles, all-terrain vehicles or vehicles propelled by human power or drawn by animals.

History: 1971 c. 277; 1985 a. 29; 1995 a. 127.

The test for whether a premises is held out to the public is whether on any given day, potentially any resident of the community with a driver's license and access to a motor vehicle could use the premises in an authorized manner. *State v. Carter*, 229 Wis. 2d 200, 598 N.W.2d 619 (Ct. App. 1999), 98–1688.

346.665 Definition. In ss. 346.67 to 346.72, notwithstanding s. 340.01 (42), “owner” means, with respect to a vehicle that is registered, or required to be registered, by a lessee of the vehicle under ch. 341, the lessee of the vehicle.

History: 1997 a. 27.

346.67 Duty upon striking person or attended or occupied vehicle. (1) The operator of any vehicle involved in an accident resulting in injury to or death of any person or in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of the accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until the operator has fulfilled the following requirements:

(a) The operator shall give his or her name, address and the registration number of the vehicle he or she is driving to the person struck or to the operator or occupant of or person attending any vehicle collided with; and

(b) The operator shall, upon request and if available, exhibit his or her operator's license to the person struck or to the operator or occupant of or person attending any vehicle collided with; and

(c) The operator shall render to any person injured in such accident reasonable assistance, including the carrying, or the making of arrangements for the carrying, of such person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.

(2) Any stop required under sub. (1) shall be made without obstructing traffic more than is necessary.

History: 1991 a. 316; 1997 a. 258.

Violation of this section is a felony. *State ex rel. McDonald v. Douglas Cty. Cir. Ct.* 100 Wis. 2d 569, 302 N.W.2d 462 (1981).

Elements of the duty under this section are discussed. *State v. Lloyd*, 104 Wis. 2d 49, 310 N.W.2d 617 (Ct. App. 1981).

Failure to stop and render aid to multiple victims of a single accident may result in multiple charges without multiplicity defects arising. *State v. Hartnek*, 146 Wis. 2d 188, 430 N.W.2d 361 (Ct. App. 1988).

A “person injured” in sub. (1) (c) includes a person who is fatally injured. A subsequent determination of instantaneous death does not absolve a person of the duty to investigate whether assistance is possible. *State v. Swatek*, 178 Wis. 2d 1, 502 N.W.2d 909 (Ct. App. 1993).

“Accident” in sub. (1) means an unexpected, undesirable event and may encompass intentional conduct. By including intentional conduct within the definition, the reporting requirements do not infringe on the 5th amendment privilege against self-incrimination. *State v. Harmon*, 2006 WI App 214, ___ Wis. 2d ___, ___ N.W. 2d ___, 05–2480.

346.675 Vehicle owner's liability for failing to stop at the scene of an accident. (1) Subject to s. 346.01 (2), the

owner of a vehicle operated in the commission of a violation of s. 346.67 (1), 346.68, or 346.69 shall be liable for the violation as provided in this section.

(2) Any person who observes a violation of s. 346.67 (1), 346.68, or 346.69 may, within 24 hours after observing the violation, report the violation to a traffic officer of the county or municipality in which the violation occurred. If possible, the report shall contain the following information:

(a) A description of the violation alleged.

(b) The time and the approximate location at which the violation occurred.

(c) The vehicle registration number and color of all vehicles involved in the violation.

(d) Identification of each vehicle involved in the violation as an automobile, station wagon, motor truck, motor bus, motorcycle, or other type of vehicle.

(e) If the violation included damage to property other than a vehicle, a description of such property.

(3) (a) Within 72 hours after receiving a report containing all of the information in sub. (2), the traffic officer may investigate the violation and, after verifying the information provided under sub. (2) (c) to (e) and determining that there is probable cause to believe that a violation of s. 346.67 (1), 346.68, or 346.69 has occurred, may prepare a uniform traffic citation under s. 345.11 and personally serve it upon the owner of the vehicle being operated in the commission of the violation of s. 346.67 (1), 346.68, or 346.69.

(b) If with reasonable diligence the owner specified in par. (a) cannot be served under par. (a), service may be made by leaving a copy of the citation at the owner's usual place of abode within this state in the presence of a competent member of the family at least 14 years of age, who shall be informed of the contents thereof.

(c) If with reasonable diligence the owner specified in par. (a) cannot be served under par. (a) or (b) or if the owner specified in par. (a) lives outside of the jurisdiction of the issuing authority, service may be made by certified mail addressed to the owner's last-known address.

(4) (a) Except as provided in par. (b), it shall be no defense to a violation of this section that the owner was not operating the vehicle at the time of the violation.

(b) The following are defenses to a violation of this section:

1. That a report that the vehicle was stolen was given to a traffic officer before the violation occurred or within a reasonable time after the violation occurred.

2. If the owner of the vehicle, including a lessee specified in subd. 3., or a person on a trial run specified in subd. 4. provides a traffic officer with the name and address of the person operating the vehicle at the time of the violation and sufficient information for the officer to determine that probable cause does not exist to believe that the owner of the vehicle was operating the vehicle at the time of the violation, then the person operating the vehicle shall be charged under s. 346.67 (1), 346.68, or 346.69 and the owner, including a lessee, or person on a trial run shall not be charged under this section.

3. Subject to subd. 2., if the vehicle is owned by a lessor of vehicles and at the time of the violation the vehicle was in the possession of a lessee, and the lessor provides a traffic officer with the information required under s. 343.46 (3), then the lessee and not the lessor shall be charged under this section.

4. Subject to subd. 2., if the vehicle is owned by a dealer as defined in s. 340.01 (11) (intro.) but including the persons specified in s. 340.01 (11) (a) to (d), and at the time of the violation the vehicle was being operated by any person on a trial run, and if the dealer provides a traffic officer with the name, address, and operator's license number of the person authorized to operate the vehicle on the trial run, then this person, and not the dealer, shall be charged under this section.

346.70 RULES OF THE ROAD

verify the status and immunity, if any, of the driver claiming diplomatic immunity.

2. Within 10 days after the date of the accident, forward a copy of the report of the accident, at no charge, to the diplomatic security command center of the office of foreign missions, diplomatic motor vehicle office, within the federal department of state.

(5) **FALSIFYING REPORTS.** No person shall falsely make and file or transmit any accident report or knowingly make a false statement in any accident report which is filed or transmitted pursuant to this section.

History: 1975 c. 240, 381; 1977 c. 29 ss. 1486, 1654 (7) (a), (c); 1977 c. 100; 1979 c. 99; 1981 c. 20, 133, 314; 1985 a. 29; 1987 a. 211; 1993 a. 246, 437; 1995 a. 113; 2001 a. 27; 2005 a. 253.

Cross Reference: See also ch. Trans 100, Wis. adm. code.

Items subject to examination under s. 346.70 (4) (f) may not be withheld by the prosecution under the common law rule that investigative material may be withheld from a criminal defendant. *State ex rel. Young v. Shaw*, 165 Wis. 2d 276, 477 N.W.2d 340 (Ct. App. 1991).

A county sheriff's department is not a consumer reporting agency subject to the fair credit reporting act for reports under sub. (4). However, the federal trade commission has taken an opposite position. 63 Atty. Gen. 364.

346.71 Coroners or medical examiners to report; require blood specimen. (1) Every coroner or medical examiner shall, on or before the 10th day of each month, report in writing any accident involving a motor vehicle occurring within the coroner's or medical examiner's jurisdiction resulting in the death of any person during the preceding calendar month. If the accident involved an all-terrain vehicle, the report shall be made to the department of natural resources and shall include the information specified by that department. If the accident involved any other motor vehicle, the report shall be made to the department and shall include the information specified by the department. The coroner or medical examiner of the county where the death occurs, if the accident occurred in another jurisdiction, shall, immediately upon learning of the death, report it to the coroner or medical examiner of the county where the accident occurred, as provided in s. 979.01 (1).

(2) In cases of death involving a motor vehicle in which the decedent was the operator of a motor vehicle, a pedestrian 14 years of age or older or a bicycle or electric personal assistive mobility device operator 14 years of age or older and who died within 6 hours of the time of the accident, the coroner or medical examiner of the county where the death occurred shall require that a blood specimen of at least 10 cc. be withdrawn from the body of the decedent within 12 hours after his or her death, by the coroner or medical examiner or by a physician so designated by the coroner or medical examiner or by a qualified person at the direction of the physician. All funeral directors shall obtain a release from the coroner or medical examiner of the county where the accident occurred as provided in s. 979.01 (4) prior to proceeding with embalming any body coming under the scope of this section. The blood so drawn shall be forwarded to a laboratory approved by the department of health and family services for analysis of the alcoholic content of the blood specimen. The coroner or medical examiner causing the blood to be withdrawn shall be notified of the results of each analysis made and shall forward the results of each such analysis to the department of health and family services. If the death involved a motor vehicle, the department shall keep a record of all such examinations to be used for statistical purposes only and the department shall disseminate and make public the cumulative results of the examinations without identifying the individuals involved. If the death involved an all-terrain vehicle, the department of natural resources shall keep a record of all such examinations to be used for statistical purposes only and the department of natural resources shall disseminate and make public the cumulative results of the examinations without identifying the individuals involved.

(3) In a case of death involving a motor vehicle in which the accident and the death occur in different counties, the county where the death occurs may charge the county where the accident

occurs a reasonable fee for withdrawing the blood specimen from the body of the decedent as required under sub. (2).

History: 1973 c. 272; 1977 c. 29 s. 1654 (7) (a); 1977 c. 273; 1983 a. 485; 1985 a. 29; 1987 a. 302; 1995 a. 27 s. 9126 (19); 2001 a. 90.

Coroners' blood test records under sub. (2) are not confidential. Test results are presumptively accurate. *Staples v. Glienke*, 142 Wis. 2d 19, 416 N.W.2d 920 (Ct. App. 1987).

346.72 Garages to keep record of repairs of accident damage. The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in an accident shall keep a record of the date such vehicle is brought in and the nature of the repair, the name and address of the owner, and the make, year and registration number of the vehicle. Such record shall be kept in the place of business during business hours and shall be open to inspection by any traffic officer. Shop records normally kept by garages and repair shops are adequate for the purpose of this section if they contain the information specified in this section.

346.73 Accident reports not to be used in trial. Notwithstanding s. 346.70 (4) (f), accident reports required to be filed with or transmitted to the department or a county or municipal authority shall not be used as evidence in any judicial trial, civil or criminal, arising out of an accident, except that such reports may be used as evidence in any administrative proceeding conducted by the department. The department shall furnish upon demand of any person who has or claims to have made such a report, or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the department solely to prove a compliance or a failure to comply with the requirement that such a report be made to the department.

History: 1971 c. 253; 1977 c. 29 s. 1654 (7) (a); 1993 a. 437.

346.74 Penalty for violating sections 346.67 to 346.73.

(1) Any person violating s. 346.72 may be required to forfeit not less than \$20 nor more than \$40 for the first offense and may be required to forfeit not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within a year.

(2) Any person violating s. 346.70 (1), (2) or (3), 346.71 or 346.73 may be required to forfeit not less than \$40 nor more than \$200 for the first offense and may be required to forfeit not less than \$100 nor more than \$500 for the 2nd or subsequent conviction within a year.

(3) Any person violating s. 346.68 or 346.69 may be required to forfeit not more than \$200.

(4) Any person violating s. 346.70 (5) may be required to forfeit not less than \$25 nor more than \$50.

(5) **Any person violating any provision of s. 346.67 (1):**

(a) Shall be fined not less than \$300 nor more than \$1,000 or imprisoned not more than 6 months or both if the accident did not involve death or injury to a person.

(b) May be fined not more than \$10,000 or imprisoned for not more than 9 months or both if the accident involved injury to a person but the person did not suffer great bodily harm.

(c) Is guilty of a Class E felony if the accident involved injury to a person and the person suffered great bodily harm.

(d) Is guilty of a Class D felony if the accident involved death to a person.

(e) Is guilty of a felony if the accident involved death or injury to a person.

(6) (a) A vehicle owner or other person found liable under s. 346.675 with respect to a violation of s. 346.67 (1) may be required to forfeit not more than \$1,000.

(b) A vehicle owner or other person found liable under s. 346.675 with respect to a violation of s. 346.68 or 346.69 may be required to forfeit not more than \$100.

(c) Imposition of liability under s. 346.675 shall not result in suspension or revocation of a person's operating privilege under

Ryan, Robin

From: Sklansky, Ron
Sent: Tuesday, February 27, 2007 3:03 PM
To: Ryan, Robin
Subject: FW: "Seth Hammes" bill
Attachments: Seth Hammes bill.pdf

From: Perlich, John H.
Sent: Tuesday, February 27, 2007 2:19 PM
To: Sklansky, Ron
Subject: FW: "Seth Hammes" bill

Ron,
Here is the email from Mr. Kroner. Would you please forward to Robin as i have not been able to locate her email? Thanks for all your help.

John

John H. Perlich

Office of Senator Dan Kapanke
32nd District
Room 3 South
608-266-5490
800-385-3385
john.perlich@legis.wisconsin.gov

From: Jim Kroner [<mailto:JKRONER@MSM-LAW.COM>]
Sent: Tuesday, February 27, 2007 2:10 PM
To: Perlich, John H.
Subject: "Seth Hammes" bill

John,

Attached is a copy of the page I prepared concerning the possible statutory revisions I proposed. I think the suggestion raised at the meeting to remove the revised statute from Chapter 29 and place it in Chapter 941 (rather than Chapter 940 as I suggested) is a good one.

When you look at the proposed revision of the penalty section (subsection 2 of the revised statute) you will see part of subsection (a) is enclosed in handwritten brackets and the words "is guilty of a Class A Misdemeanor" handwritten above. The bracketed language describes the ordinary penalties for a Class A Misdemeanor. I think it makes sense to describe the offense as a Class A Misdemeanor rather than to specifically detail the potential fine and incarceration. That

02/27/2007

is how it is more commonly done these days. Therefore, I suggest dropping the language in the brackets and substituting the handwritten words "is guilty of a Class A Misdemeanor" instead.

Please let me know if I can be of further assistance.

Jim Kroner
jkroner@msm-law.com

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FEDERAL TAX NOTICE:

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02/27/2007

Sen. Kapanke
Talking Points on Meeting with Atty. Jim Kroner and Others (Listed)
Friday, April 7th 2006 @ 1:00 pm.
201 Main St Suite 700 US Bank Building
(Notes Prepared By John O'Brien)

ISSUE

Atty. Kroner represents a family that had a family member killed in a hunting accident. The person who discharged the weapon that killed the family member knew he had injured the person, but upon seeing the injured hunter, left the scene and failed to call for help or render any assistance.

Atty. Kroner and the family when initially contacting our office wanted legislation to make failing to render aid under these circumstances, subject to the same penalty that leaving the scene of an auto accident carries. Atty. Kroner was not aware that (Stat. 29.341 Duties On Accidental Shooting), already existed.

After research I agree with Atty. Kroner that existing statutes do not appropriately address this scenario.

The following individuals connected to this matter will be present at the meeting.

Steven Hammes

2310 Main St.

La Crosse, WI

Mr. Hammes is the father of Seth Hammes who was killed by shots fired by Russell Schroeder who is the defendant recently convicted of 1st Degree Reckless Homicide and 2nd Degree Reckless Injury concerning then Monroe County. Mr. Schroeder has yet to be sentenced.

Robert "Rob" Reinhart

1415 Cass St.

La Crosse, WI

Mr. Reinhart is the father of Austin Reinhart who was one of the closest friends of the decedent Seth Hammes. Austin, Seth and another boy were on rural property in Monroe County owned by Reinharts on the occasion when Seth was shot and killed by Mr. Schroeder.

Karen Rengert

112 S. Court St.

Sparta, WI

Ms. Rengert is the victim/witness coordinator for Monroe County and was extremely considerate and helpful in working with the Hammes and Reinhart families throughout the prosecution of Mr. Schroeder. Ms. Rengert has suggested the statewide association of vicim/witness coordinators may be interested in supporting the legislation the families and I are proposing ought to be adopted.

Attorney Kroner originally referenced this statute as an example of language that could be adopted/modified to address this scenario.

Under current law Chapter 346 Rules of the Road.

346.67(1)(c)

(c) The operator shall render to any person injured in such accident reasonable assistance, including the carrying, or the making of arrangements for the carrying, of such person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.

The penalty for failure to render aid under 346.67 (1) (c) is;

(5) Any person violating any provision of s. 346.67 (1): (a) Shall be fined not less than \$300 nor more than \$1,000 or imprisoned not more than 6 months or both if the accident did not involve death or injury to a person.

(b) May be fined not more than \$10,000 or imprisoned for not more than 9 months or both if the accident involved injury to a person but the person did not suffer great bodily harm.

(c) Is guilty of a Class E felony if the accident involved injury to a person and the person suffered great bodily harm.

(d) Is guilty of a Class D felony if the accident involved death to a person.

(e) Is guilty of a felony if the accident involved death or injury to a person.

History: 1971 c. 278; 1973 c. 218; 1981 c. 20, 70; 1997 a. 258, 283; 2001 a

A statute that Attorney Kroner was not aware of when he called our office, (29.341 Duties on accidental Shooting.) already exists and it deals with exactly this scenario.

The one thing Atty Kroner, John O, no doubt the family will think is that the penalties under 29.341 are not sufficient and could be increased.

Another note from me.

This statute (29.341) deals only with Accidental Shooting while hunting you should propose both increasing the penalties and modifying the statute to include any accidental shooting, i.e. target shooting, accidental discharge from handling a weapon etc. You would have to consider possibly including language that set an age for compliance. A minor (under 12 or so) who accidentally shoots someone while handling a loaded weapon that was available cannot be held to the same standard (duty to render assistance) as an adult.

Also, Atty. Kroner suggested and I agree that we might consider moving the modified language from: Chapter 29 which relate to "General Fish and Game Regulation" to Chapter 940 which relate to "Crimes against Life and Bodily Security."

The above are all details that we (you) would work out during drafting and pre-introduction input from interested parties.

The following page contains what I would send to the Leg Council Attorney Mark Patronski to review and to prepare correct drafting instructions.

Preliminary drafting instructions for changes to Ch. 29.341 and 940.??

Doublestrikes = deletions

Bold, Underlined = additions.

~~29.341~~ (insert) 940.??

Duties on accidental shooting.

???????

(1) Any person who, *(insert some age restriction?)* **while handling a firearm or other dangerous weapon** ~~hunting any wild animal or bird, who~~ discharges **the weapon** ~~a firearm or arrow~~, and by that discharge injures or kills another person, shall immediately give his or her name and address to the injured person, render assistance to the injured person and obtain immediate medical or hospital care for the injured person, and immediately report the injury or death to the sheriff or police of the locality in which the shooting took place.

~~(2) Any person intentionally failing to comply with sub. (1) shall be fined not more than \$5,000, or imprisoned in the county jail not more than one year, or both. Any person who neglects to comply with sub. (1) shall be fined not more than \$5,000 or imprisoned not more than 9 months or both.~~

SUGGESTED PENALTIES (taken directly from 346.67 failure to render aid in auto accident)

(?) Any person violating any provision of s. **940.??** ~~346.67 (1)~~: (a) Shall be fined not less than \$300 nor more than \$1,000 or imprisoned not more than 6 months or both if the accident did not involve death or injury to a person.

(?) May be fined not more than \$10,000 or imprisoned for not more than 9 months or both if the accident involved injury to a person but the person did not suffer great bodily harm.

(?) Is guilty of a Class E felony if the accident involved injury to a person and the person suffered great bodily harm.

(?) Is guilty of a Class D felony if the accident involved death to a person.

(2) (a) A blind situated on state-owned property and used in hunting waterfowl must bear the name of the owner affixed permanently to the blind in lettering one-inch square or larger.

(b) A blind on state-owned property may be erected not more than 7 days prior to the opening of the waterfowl hunting season and must be removed by the owner within 7 days after the close of the season unless the department approves an extension of the deadline for removal due to compelling personal needs of the owner. Any owner who erects a blind more than 7 days prior to the opening of the waterfowl hunting season or who does not remove a blind within 7 days after the close of the waterfowl season, or by a later date approved by the department, shall forfeit not less than \$10 nor more than \$200.

History: 1977 c. 443; 1997 a. 248 ss. 441, 442; Stats. 1997 s. 29.327; 1997 a. 249 s. 36; 1999 a. 32.

Cross Reference: See also ss. NR 10.12 and 10.125, Wis. adm. code.

29.331 Trapping regulation. (1) TAGS. Each trap used under a trapping license shall be tagged with a metal tag stamped with the name and address of the owner. All untagged traps shall be seized and confiscated, and the owner or person using or attending the untagged traps shall be punished as provided under s. 29.971 (4) and (12).

(2) SHIPMENTS. All shipments of hides must be marked showing the number and kinds of hides in the package, the name and address of the shipper, and the number of the shipper's trapping license.

(3) REPORT. On or before June 1 annually, the licensee shall report to the department, by affidavit, on forms furnished by the department, the number of the licensee's license, the number and value of each variety of animals taken during the previous 12 months ending May 1, and other information required on the forms furnished.

(3m) USE OF FEES. From the moneys received from the sale of trapping licenses, the department shall credit an amount equal to \$2 times the number of trapping licenses issued to the appropriation under s. 20.370 (1) (Lg).

(5) MOLESTING TRAPS. (a) No person may molest, take or appropriate a trap belonging to another person when the trap is lawfully placed. No person may take or appropriate the animal or contents of any lawfully placed trap belonging to another person.

(b) A person who violates this subsection shall be fined not less than \$300 nor more than \$1,000 or imprisoned not more than 90 days or both. In addition, if a person violates this subsection, the court shall revoke all licenses issued to the person under this chapter for 5 years.

History: 1973 c. 90; 1975 c. 365 s. 62; 1979 c. 34; 1979 c. 190 s. 4; 1981 c. 236; 1981 c. 243 s. 7; 1981 c. 391; 1983 a. 27; 1991 a. 254, 316; 1997 a. 27; 1997 a. 248 ss. 283 to 287, 476; Stats. 1997 s. 29.331; 2001 a. 107.

Cross Reference: See also ss. NR 10.13 and 10.145, Wis. adm. code.

29.334 Hunting and trapping; treatment of wild animals. (1) A person who hunts or traps any game animal or fur-bearing animal shall kill the animal when it is taken and make it part of the daily bag or shall release the game animal or fur-bearing animal.

(2) PENALTY. A person who violates sub. (1) shall forfeit not less than \$100 nor more than \$1,000.

(3) This section does not apply to farm-raised deer, farm-raised game birds, or wild animals that are subject to regulation under ch. 169.

History: 1997 a. 248 s. 513; 1999 a. 32; 2001 a. 56 ss. 38 to 40, 69.

29.335 Feeding wild animals for nonhunting purposes. Subject to s. 29.336, the department shall promulgate rules to regulate the recreational and supplemental feeding of wild animals for purposes other than hunting.

History: 2001 a. 108; 2003 a. 240.

29.336 Feeding deer. (1) In this section, "feeding deer" means to place any material to feed or attract deer in or from the wild.

(2) The department shall promulgate rules that prohibit feeding deer for hunting or viewing purposes in any of the following counties:

(a) A county in which the county or a portion of the county is in a chronic wasting disease control zone designated by the department by rule.

(b) A county in which a positive test for chronic wasting disease or bovine tuberculosis has been confirmed in any captive or free-roaming domestic or wild animal after December 31, 1997.

(c) A county in which the county or a portion of the county is within a 10-mile radius of the known location of a captive or free-roaming domestic or wild animal that has been tested and confirmed to be positive for chronic wasting disease or bovine tuberculosis after December 31, 1997.

(3) A person may feed deer for viewing purposes in counties not included in the rules promulgated under sub. (2) if all of the following apply:

(a) The feeding site is within 50 yards of an owner-occupied residence or of a person's business, if the business is one that is generally open to the public.

(b) The feeding site is not less than 100 yards from a roadway, as defined in s. 340.01 (54), having a posted speed limit of 45 miles per hour or more.

(c) Not more than 2 gallons of material are at the feeding site.

(d) The material used to feed deer does not contain any animal part or animal byproduct.

(4) A person may feed deer for hunting purposes in counties not included in the rules promulgated under sub. (2) during any season open for hunting deer if all of the following apply:

(a) Not more than 2 gallons of material are at the feeding site.

(b) No feeding site is closer than 100 yards of another feeding site.

(c) The person does not place more than 2 gallons of material in any area comprising 40 acres or less.

(d) The material used to feed deer does not contain any animal part or animal byproduct.

History: 2003 a. 240.

29.337 Hunting and trapping by landowners and occupants. (1) The owner or occupant of any land, and any member of his or her family, may hunt or trap beaver, coyotes, foxes, raccoons, woodchucks, rabbits, and squirrels on the land without a license issued under this chapter or ch. 169 at any time, except as follows:

(a) An owner or occupant may not hunt any of these wild animals during the period of 24 hours before the time for commencement of the deer hunting season in any area where an open season for hunting deer with firearms is established.

(b) Such persons may not hunt coyotes during an open season for hunting deer with firearms in an area that is closed by the department by rule to coyote hunting.

(2) The owner or occupant of any land and any member of his or her family may take beaver, rabbits, raccoons and squirrels on the land at any time by means of live trapping with box traps in areas where the discharge of a firearm is illegal.

History: 1979 c. 142; 1987 a. 27; 1993 a. 246; 1997 a. 27; 1997 a. 248 ss. 433 to 436; Stats. 1997 s. 29.337; 2001 a. 56, 105.

Cross Reference: See also ch. NR 12 and ss. NR 10.13 and 10.145, Wis. adm. code.

29.341 Duties on accidental shooting. (1) Any person who, while hunting any wild animal or bird, discharges a firearm or arrow, and by that discharge injures or kills another person, shall immediately give his or her name and address to the injured

29.341 WILD ANIMALS AND PLANTS

person, render assistance to the injured person and obtain immediate medical or hospital care for the injured person, and immediately report the injury or death to the sheriff or police of the locality in which the shooting took place.

(2) Any person intentionally failing to comply with sub. (1) shall be fined not more than \$5,000, or imprisoned in the county jail not more than one year, or both. Any person who neglects to comply with sub. (1) shall be fined not more than \$5,000 or imprisoned not more than 9 months or both.

History: 1975 c. 365; 1991 a. 316; 1997 a. 248 s. 413; Stats. 1997 s. 29.341.

29.345 Hunting, fishing or trapping accident; failure to report. (1) Every person who has caused or been involved in an accident in which a person has been injured by discharge of a firearm or arrow while hunting, fishing or trapping, or inflicted an injury upon himself or herself with a firearm or with an arrow while hunting, fishing or trapping, shall render a report to the department at any of its field offices within 10 days after the injury unless the person is physically incapable of making the required report, in which event the person or persons involved in the accident shall designate an agent to file the report within the specified time.

(2) Any person who is involved in an accident with firearm or arrow while hunting, fishing or trapping, and who fails to submit the report required by this section, shall forfeit not more than \$50. In addition, the court may revoke any license issued to the person under this chapter and may further provide that no license shall be issued to the person under this chapter for a fixed period of time specified by the court.

History: 1975 c. 365; 1991 a. 316; 1997 a. 248 s. 414; Stats. 1997 s. 29.345.

29.347 Possession of deer and elk; heads and skins.

(1) **DEFINITIONS.** In this section:

(a) "Law enforcement officer" means a warden or any other law enforcement officer authorized by the department to issue tags for car kill deer.

(b) "Validated" means marked with specified information in the manner required by the department.

(2) **DEER OR ELK CARCASS TAGS.** Except as provided under sub. (5) and s. 29.324 (3), any person who kills a deer shall immediately attach to the ear or antler of the deer a current validated deer carcass tag which is authorized for use on the type of deer killed. Any person who kills an elk shall immediately attach to the ear or antler of the elk a current validated elk carcass tag. Except as provided under sub. (2m) or s. 29.89 (6), no person may possess, control, store, or transport a deer carcass unless it is tagged as required under this subsection. Except as provided under sub. (2m), no person may possess, control, store, or transport an elk carcass unless it is tagged as required under this subsection. A person who kills a deer or an elk shall register the deer or elk in the manner required by the department. A person who kills a deer or an elk shall possess, control, store, or transport the deer or elk carcass in compliance with rules promulgated by the department under s. 29.063 (3). The carcass tag may not be removed before registration. The removal of a carcass tag from a deer or an elk before registration renders the deer or elk untagged.

(2m) **REMOVAL AND RETENTION OF TAGS.** (a) A carcass tag attached under sub. (2) and a registration tag attached by the department or a car kill tag attached under sub. (5) may be removed from a gutted carcass at the time of butchering, but the person who killed or obtained the deer or elk shall retain all tags until the meat is consumed.

(b) Subject to sub. (6), any person who retains a tag under par. (a) may give deer or elk meat to another person. The person who receives the gift of deer or elk meat is not required to possess a tag.

(3) **HEADS AND SKINS.** (a) Except as provided in par. (b) and sub. (6), the control or possession of the head or skin of any deer or elk lawfully killed, when severed from the rest of the carcass, are not subject to this chapter.

(b) No person may possess or control deer or elk antlers in the velvet or a deer or an elk skin in the spotted coat of a lawfully killed deer or elk unless the person to whom the carcass tag for the deer or elk was issued, or the person who had the deer tagged under sub. (5), has requested and received authorization from the department to control or possess the antlers or skin. A request for written authorization from the department shall be made within 7 days after the carcass tag has been attached to the deer or elk.

(4) **ANTLERS REMOVED OR BROKEN.** Any deer from which the antlers have been removed, broken, shed, or altered so as to make determination of the legality of the deer impossible is an illegal deer if the deer is taken during an open season for hunting only antlered deer or during an open season for hunting only antlerless deer. Any elk from which the antlers have been removed, broken, shed, or altered so as to make determination of the legality of the elk impossible is an illegal elk if the elk is taken during an open season for hunting only antlered elk or during an open season for hunting antlerless elk.

(5) **CAR KILL DEER.** (a) Subject to sub. (6), any person who while operating a motor vehicle on a highway accidentally collides with and kills a deer may take possession of the carcass. Subject to sub. (6), if the motor vehicle operator does not want to take the carcass, the carcass may be taken by any other person who is present at the scene of the accident at the time the collision occurs or at any time after the collision occurs.

(b) No person may take possession of the carcass of a deer killed in the manner specified in par. (a) and remove the carcass from the scene of the accident unless the person has complied with rules promulgated by the department under s. 29.063 (3) and one of the following apply:

1. The person has the carcass tagged by a law enforcement officer.

2. The person contacts a law enforcement officer and gives his or her name, the location of the carcass and the date and the time, and the law enforcement officer approves the removal and gives the person the instructions and location for having the carcass tagged at a later time.

(c) The person removing a carcass under the procedure specified in par. (b) 2. shall have the carcass tagged within 24 hours after receiving the instructions under par. (b) 2.

(d) No fee may be charged for a tag issued under this subsection.

(6) **CONTROL OF CARCASSES.** No person may transport, possess, store, butcher, or control the carcass of a cervid in violation of rules promulgated by the department under s. 29.063 (3) or (4).

History: 1975 c. 97, 199; 1983 a. 546; 1991 a. 269, 316; 1995 a. 79, 126; 1997 a. 248 s. 504; Stats. 1997 s. 29.347; 1999 a. 9; 2001 a. 16, 56, 109; 2003 a. 247, 321; 2005 a. 286.

Cross Reference: See also ss. NR 10.001 and 19.13, Wis. adm. code.

Only the tag of the person who kills the deer may be attached under sub. (2). State v. Skow, 141 Wis. 2d 49, 413 N.W.2d 650 (Ct. App. 1987).

29.351 Skins of fur-bearing animals. (1) No person may do any of the following:

(a) Possess or control the skin of any mink, muskrat, fisher, pine marten or otter showing that the animal was shot.

(b) Possess or control the green skin of any fur-bearing animal, except beaver, from the 5th day after the beginning of the closed season for that animal until the end of that closed season.

(c) Possess the raw skin of any muskrat, mink, otter, fisher or pine marten at any time unless the person is the holder of a valid scientific collector permit, fur dealer license, trapping license or resident conservation patron license. No license is required for a person breeding, raising and producing domestic fur-bearing animals in captivity, as defined in s. 29.627, or for a person authorized to take muskrats on a cranberry marsh under a permit issued to the person by the department.

SUGGESTED REVISIONS

I. REPLACEMENT IN CHAPTER 940 WIS. STATS. [WHICH GOVERNS CRIMES AGAINST LIFE AND BODILY SECURITY] PLACING THE CRIME THERE MAKES MORE SENSE THAN IN CHAPTER 29 WHICH GOVERNS WILD ANIMALS AND PLANTS

II. ADDITION OF A KNOWLEDGE REQUIREMENT WILL ENSURE THE CRIMINAL PENALTIES ARE NOT APPLIED WHERE A PERSON DID NOT KNOW THE FIREARM OR ARROW WAS DISCHARGED AND/OR DID NOT KNOW THE DISCHARGE INJURED OR KILLED ANOTHER. IT WILL ALSO AFFECT THE PENALTY STRUCTURE FOR THE EXISTING STATUTE WHICH IMPOSES DIFFERENT PENALTIES BASED ON WHETHER THE ACTOR INTENTIONALLY OR NEGLECTFULLY FAILED TO PERFORM THE REQUIRED NOTIFICATIONS.

III. CHANGE THE PENALTY STRUCTURE TO MAKE IT CONSISTENT WITH THE PENALTY FOR WIS. STAT. §346.67 WHERE THE OPERATOR OF A VEHICLE HAS DUTIES WHEN INVOLVED IN AN ACCIDENT RESULTING IN INJURY TO OR DEATH OF ANY PERSON. [NOTE THE PENALTY FOR VIOLATIONS OF WIS. STAT. §346.67 ARE FOUND IN WIS. STAT. §346.74.]

940.341. Duties on accidental shooting.

(1) Any person who KNOWINGLY ~~while hunting any wild animal or bird~~, discharges a firearm or arrow, and by that discharge injures or kills another person, shall immediately give his or her name and address to the injured person, render assistance to the injured person and obtain immediate medical or hospital care for the injured person, and immediately report the injury or death to the sheriff or police of the locality in which the shooting took place.

(2) ~~Any person intentionally failing to comply with sub. (1) shall be fined not more than \$5,000, or imprisoned in the county jail not more than one year, or both. Any person who neglects to comply with sub. (1) shall be fined not more than \$5,000 or imprisoned not more than 9 months or both.~~ WHOEVER VIOLATES SUBSECTION (1):

- IS GUILTY OF A CLASS A MISDEMEANOR*
- (a) **[MAY BE FINED NOT MORE THAN 10,000 OR IMPRISONED FOR NOT MORE THAN NINE MONTHS OR BOTH] IF THE DISCHARGE INVOLVED INJURY TO A PERSON BUT THE PERSON DID NOT SUFFER GREAT BODILY HARM.**
 - (b) **IS GUILTY OF A CLASS E FELONY IF THE DISCHARGE INVOLVED INJURY TO A PERSON AND THE PERSON SUFFERED GREAT BODILY HARM.**
 - (c) **IS GUILTY OF A CLASS D FELONY IF THE DISCHARGE INVOLVED DEATH TO A PERSON.**

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

4-4-07
d-note

causing an injury

Gen

- 1 AN ACT ...; relating to: duties upon an accidental shooting and providing a
2 penalty. ✓

Analysis by the Legislative Reference Bureau

Under current law, a person who accidentally injures another person while hunting with a firearm or a bow has a duty to give his or her name to the injured person, render assistance to the person, obtain immediate medical care for the person, and report the incident to a local law enforcement agency. A person who fails to comply with these requirements is subject to a fine up to \$5000, imprisonment for up to one year if the person intentionally failed to comply, or for up to nine months if the person negligently failed to comply, or both. *

Under this bill, any person who knowingly injures another with a dangerous weapon is required to give his or her name to the injured person, render assistance to the person, obtain immediate medical care for the person, and report the incident to a local law enforcement agency. A person who fails to do so is guilty of a Class A misdemeanor if the violation involved injury to a person but the person did not suffer great bodily harm; is guilty of a Class E felony if the violation involved injury to a person and the person suffered great bodily harm; and is guilty of a Class D felony if the violation involved death to a person. *

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 29.341^x of the statutes is repealed.

SECTION 2. 940.245^x of the statutes is created to read:

940.245 Duties upon accidental injury by dangerous weapon.[✓] (1) Any person who knowingly injures or kills another person with a dangerous weapon shall immediately give his or her name and address to the injured person, render assistance to the injured person and obtain immediate medical or hospital care for the injured person,[✓] and immediately report the injury or death to the sheriff or police of the locality in which the incident took place.

(2) Any person who violates sub. (1):[✓]

(a) Is guilty of a Class A misdemeanor[✓] if the violation involved injury to a person but the person did not suffer great bodily harm.

(b) Is guilty of a Class E felony[✓] if the violation involved injury to a person and the person suffered great bodily harm.

(c) Is guilty of a Class D felony[✓] if the violation involved death to a person.

(END)

d-note
↓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

date

PI
LRB-20947dn

PJH: ^:...

jld

John,

940

* Please review this draft to see if it suits your purposes. Please note that I did put the new provision into chapter ~~840~~ ⁹⁴⁰, because the proposed statute deals with an actual injury to another person, as opposed to the simple "possession" type statutes typically dealt with in chapter ~~841~~ ⁹⁴¹.

* Please also note that I expanded the draft to include any injury by a "dangerous weapon," and did not limit it to firearms or bow and arrow. ✓ The term "dangerous weapon" includes both of those implements, but would also encompass other instruments designed for use as weapons. Please let me know if that is not acceptable to you.

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2094/P1dn
PJH:jld:jf

April 11, 2007

John,

Please review this draft to see if it suits your purposes. Please note that I did put the new provision into chapter 940, because the proposed statute deals with an actual injury to another person, as opposed to the simple "possession" type statutes typically dealt with in chapter 941.

Please also note that I expanded the draft to include any injury by a "dangerous weapon," and did not limit it to firearms or bow and arrow. The term "dangerous weapon" includes both of those implements, but would also encompass other instruments designed for use as weapons. Please let me know if that is not acceptable to you.

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.wisconsin.gov

Hurley, Peggy

From: Perlich, John H.
Sent: Wednesday, May 16, 2007 4:01 PM
To: Hurley, Peggy
Subject: FW: Bill Draft

Peggy,
Would you please add the changes that Ron and Mr. Kroner mentioned to LRB 2094/P1? Thank you.

John

John H. Perlich

Office of Senator Dan Kapanke
32nd District
Room 3 South
608-266-5490
800-385-3385
john.perlich@legis.wisconsin.gov

From: Sklansky, Ron
Sent: Wednesday, May 16, 2007 10:38 AM
To: Perlich, John H.
Subject: RE: Bill Draft

John:

I have recently reviewed the legislative history of s. 346.74 (5) (e), Stats., and agree with Mr. Kroner's remarks regarding that statutory provision.

From: Perlich, John H.
Sent: Wednesday, May 16, 2007 10:07 AM
To: Hurley, Peggy; Sklansky, Ron
Subject: FW: Bill Draft

Ron and Peggy,
Thank you for help on the draft of LRB 2094/P1. Would you please take a look at the forwarded email and advise me on the concerns that Mr. Kroner has regarding s 346.74(5)(e). Again, thank you for your assistance.

Sincerely,
John H. Perlich

John H. Perlich

Office of Senator Dan Kapanke
32nd District
06/02/2007

Room 3 South
608-266-5490
800-385-3385
john.perlich@legis.wisconsin.gov

From: Jim Kroner [mailto:JKRONER@MSM-LAW.COM]
Sent: Wednesday, May 16, 2007 9:59 AM
To: Perlich, John H.
Subject: Bill Draft

John,

Thank you for providing me with a copy of the draft. I think it is fine as written. You might want to run it by Judge Abbott and District Attorney Cary in Monroe County (among others you may already have in mind).

You may remember we also discussed Wis. Stat. Sec. 346.74 which contains the penalties for the same sort of action (or inaction) when the injury is caused by operation of a motor vehicle. During that discussion, I pointed out that Subsection (5)(e) of sec. 346.74 is a historical anachronism and should be repealed. Subsection (5)(e) is no longer accurate given that subsection (5)(b) which provides the penalty for causing injury but not great bodily harm was amended to misdemeanor level penalties after subsection (5)(e) was enacted.

If you run this by the revisor of statutes bureau I am sure they will understand and agree.

Jim Kroner
jkroner@msm-law.com

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FEDERAL TAX NOTICE:

Treasury Regulations require us to inform you that any federal tax advice contained herein (including in any attachments and enclosures) is not intended or written to be used, and cannot be used by any person or entity, for the purpose of avoiding penalties that may be imposed by the Internal Revenue Service. In addition, we do not impose upon any person or entity to whom this is addressed any limitation on the disclosure of the tax treatment or tax structure of any transaction discussed herein (including in any attachments and enclosures).

06/02/2007

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

6-2-07

repen

- 1 AN ACT *to repeal* 29.341; and *to create* 940.245 of the statutes; **relating to:**
- 2 duties upon causing an injury, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person who accidentally injures another person while hunting with a firearm or a bow has a duty to give his or her name to the injured person, render assistance to the person, obtain immediate medical care for the person, and report the incident to a local law enforcement agency. A person who fails to comply with these requirements is subject to a fine of up to \$5,000 or imprisonment for up to one year if the person intentionally failed to comply, or for up to nine months if the person negligently failed to comply, or both.

Under this bill, any person who knowingly injures another with a dangerous weapon is required to give his or her name to the injured person, render assistance to the person, obtain immediate medical care for the person, and report the incident to a local law enforcement agency. A person who fails to do so is guilty of: 1) a Class A misdemeanor if the violation involved injury to a person but the person did not suffer great bodily harm; 2) a Class E felony if the violation involved injury to a person and the person suffered great bodily harm; or 3) a Class D felony if the violation involved death to a person.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

NO # The bill also eliminates a provision in the statutes that states that leaving the scene of a motor vehicle accident is a felony if the accident involved injury, but not great bodily harm to another person.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 29.341 of the statutes is repealed.

2 ~~SECTION 1.~~ 940.245 of the statutes is created to read:

3 **940.245 Duties upon accidental injury by dangerous weapon.** (1) Any
4 person who knowingly injures or kills another person with a dangerous weapon shall
5 immediately give his or her name and address to the injured person, render
6 assistance to the injured person and obtain immediate medical or hospital care for
7 the injured person, and immediately report the injury or death to the sheriff or police
8 of the locality in which the incident took place.

9 (2) Any person who violates sub. (1):

10 (a) Is guilty of a Class A misdemeanor if the violation involved injury to a person
11 but the person did not suffer great bodily harm.

12 (b) Is guilty of a Class E felony if the violation involved injury to a person and
13 the person suffered great bodily harm.

14 (c) Is guilty of a Class D felony if the violation involved death to a person.

15 (END)

move
[SECTION # 346.74(5)(c) ✓ of the statutes is repealed.

Hurley, Peggy

From: Perlich, John H.
Sent: Thursday, October 25, 2007 4:55 PM
To: Hurley, Peggy
Subject: FW: LRB 2094

Peggy,
Could we get a hot rush on a redraft regarding point 1??

John H. Perlich

Office of Senator Dan Kapanke
32nd District
Room 3 South
608-266-5490
800-385-3385
john.perlich@legis.wisconsin.gov

From: Sklansky, Ron
Sent: Thursday, October 25, 2007 4:40 PM
To: Perlich, John H.
Subject: RE: LRB 2094

John:

1. I think in this context that "knowingly" refers to whether the actor knows that another person has been injured or killed. This can be known when an accident occurs. If the use of the word is bothersome to someone, the first sentence could be redrafted to read: "Any person who injures or kills another person with a dangerous weapon, and who knows or should know that the person has been injured or killed, shall...."

2. Words like "immediately" are used often in the statutes. It's up to a jury or a court to determine what the words mean in a particular fact situation.

3. "Medical" or "hospital" care does not strike me as redundant. Medical care can be provided onsite and that certainly would not be hospital care.

I won't be in the office tomorrow, but I'll be back Monday morning. Let me know if you have any other questions about the bill draft.

Ron

From: Perlich, John H.
Sent: Thursday, October 25, 2007 4:23 PM

To: Sklansky, Ron
Subject: LRB 2094

Ron,
Peggy's out sick so I thought I would bounce these questions off you. The initial concern has been dropped, we've got an assembly lead, but he had a couple of questions

- 1) the question was raised regarding the use of "accidental" in line 4 and "knowingly" in line 5, aren't they contradictory terms?
- 2) the use of the term "immediate/immediately" in other areas of the statute?
- 3) is the language "medical or hospital care" redundant?

Thanks for all your help.

John

John H. Perlich

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2007 BILL

Gen

- 1 AN ACT *to repeal* 29.341 and 346.74 (5) (e); and *to create* 940.245 of the statutes;
- 2 **relating to:** duties upon causing an injury, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person who accidentally injures another person while hunting with a firearm or a bow has a duty to give his or her name to the injured person, render assistance to the person, obtain immediate medical care for the person, and report the incident to a local law enforcement agency. A person who fails to comply with these requirements is subject to a fine of up to \$5,000 or imprisonment for up to one year if the person intentionally failed to comply, or for up to nine months if the person negligently failed to comply, or both.

Under this bill, any person who ~~knowingly~~ *knows* injures another with a dangerous weapon is required to give his or her name to the injured person, render assistance to the person, obtain immediate medical care for the person, and report the incident to a local law enforcement agency. A person who fails to do so is guilty of: 1) a Class A misdemeanor if the violation involved injury to a person but the person did not suffer great bodily harm; 2) a Class E felony if the violation involved injury to a person and the person suffered great bodily harm; or 3) a Class D felony if the violation involved death to a person. The bill also eliminates a provision in the statutes that leaving the scene of a motor vehicle accident is a felony if the accident involved injury, but not great bodily harm, to another person.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

BILL

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 29.341 of the statutes is repealed.

SECTION 2. 346.74 (5) (e) of the statutes is repealed.

SECTION 3. 940.245 of the statutes is created to read:

940.245 Duties upon accidental injury by dangerous weapon. (1) Any person who knowingly injures or kills another person with a dangerous weapon shall immediately give his or her name and address to the injured person, render assistance to the injured person and obtain immediate medical or hospital care for the injured person, and immediately report the injury or death to the sheriff or police of the locality in which the incident took place.

(2) Any person who violates sub. (1):

(a) Is guilty of a Class A misdemeanor if the violation involved injury to a person but the person did not suffer great bodily harm.

(b) Is guilty of a Class E felony if the violation involved injury to a person and the person suffered great bodily harm.

(c) Is guilty of a Class D felony if the violation involved death to a person.

(END)

Barman, Mike

From: Perlich, John H.
Sent: Friday, November 02, 2007 9:18 AM
To: LRB.Legal
Subject: Draft Review: LRB 07-2094/2 Topic: Accidental shootings

Please Jacket LRB 07-2094/2 for the SENATE.

Rush